

PLANNING COMMITTEE – 19 AUGUST 2021**PART 3**

Report of the Head of Planning

PART 3Applications for which **REFUSAL** is recommended

3.1 REFERENCE NO - 21/500413/OUT		
APPLICATION PROPOSAL		
Outline Application with all matters reserved for erection of 3 no. one bedroom dwellinghouses with the dormers to the front elevation, with all living accommodation to first floors and above.		
ADDRESS Land at 32 Linden Drive And 67 Queens Way Sheerness Kent ME12 1LG		
RECOMMENDATION– REFUSE		
SUMMARY OF REASONS FOR REFUSAL		
The application is for residential development in a flood risk area, the Environment Agency objects. There is no mitigation to harm to biodiversity, a “SAMMS” contribution has not been paid. The proposal, for reasons described in the report, would be overdevelopment; detrimental to visual amenity and have a detrimental impact to neighbors and fail to provide adequate amenity to future occupiers.		
REASON FOR REFERRAL TO COMMITTEE		
Town Council support		
WARD Sheerness	PARISH/TOWN COUNCIL Sheerness Town Council	APPLICANT Mr M Barber AGENT Mrs J Keeley
DECISION DUE DATE 25/03/21	PUBLICITY EXPIRY DATE 22/02/21	OFFICER SITE VISIT DATE 29/06/21

Relevant Planning History

None.

MAIN REPORT**1.0 DESCRIPTION OF SITE**

- 1.01 The site consists of the curtilages of two houses: 32 Linden Drive and 67 Queensway.
- 1.02 The site is at West Minster within the built-up area boundary of Sheerness.
- 1.03 Surrounding development appears to be wholly residential in the form of two-storey terraces and semi-detached houses.

2.0 PROPOSAL

- 2.01 This is an Outline Application with all matters reserved for the erection of 3 no. one bedroom dwellinghouses. The illustrative plans show that this could take the form of a three storey development with the top floor contained within the roof space and with the dormers to the front elevation, with all living accommodation to first floors and above.
- 2.02 The application seeks outline planning permission with all matters reserved. However, a design to the three houses proposed is indicated with a fair degree of detail. Also, the description of the proposal relates to a particular form in which the design is envisaged.
- 2.03 The application site is a roughly square shaped parcel of land located on the corner of Linden Drive and Queens Way and forming part of the residential curtilage to No.2 32 and 67. The site measures approx. 22m x 17m in size. Parts of the two existing curtilages would be split off to form a site for a terrace of three houses with three parking spaces. This land is essentially to the side of No.s 32 and 67, and these properties would retain front and rear gardens, the latter measuring between 10-13 metres in length.
- 2.04 The illustrative plans show that the proposed terrace would face Linden Drive and follow the line of the existing terrace facing Linden Drive and set to the southwest. Three parking spaces are shown to the side of the site, leading onto Queens Way.
- 2.05 The illustrative plans show that the proposed terrace could accommodate two storeys with a third floor in the roof space incorporating front dormers. The plans illustrate that the development could incorporate a pitched roof with a ridge running from side to side and have a form of a clipped side gable, almost a half gable form.
- 2.06 The indicative plans show identical floor plans to the houses of an entrance door to a hall, utility room, w.c. and home office on the ground floor; kitchen, bathroom and living room on the first floor; and, a single sizeable bedroom on the second floor within the roof space.

3.0 PLANNING CONSTRAINTS

Environment Agency Flood Zone 3
Within built confines of Sheerness

4.0 POLICY AND OTHER CONSIDERATIONS

4.1 Bearing Fruits 2031: The Swale Borough Local Plan 2017

ST 1 Delivering sustainable development in Swale
ST 2 Development targets for jobs and homes 2014-2031
ST 3 The Swale settlement strategy
ST 6 The Isle of Sheppey area strategy
CP 3 Delivering a wide choice of high quality homes
CP 4 Requiring good design
DM 7 Vehicle parking
DM 14 General development criteria
DM 19 Sustainable design and construction
DM 21 Water, flooding and drainage
DM 28 Biodiversity and geological conservation

4.2 The National Planning Policy Framework (NPPF) – Paragraphs 8, 11, 12, 47, 119, 124, 126-134, 159-168, 179-182

4.3 National Planning Practice Guidance – Effective use of land, Flood Risk and Coastal Change, Housing Optional Technical Standards, Use of Planning Conditions

- 4.4 Supplementary Planning Guidance: Parking Standards SPD, April 2020, Developer Contributions Supplementary Planning Document, adopted 30 November 2009

5.0 LOCAL REPRESENTATIONS

	COMMENTS RECEIVED	OFFICER RESPONSE
Town Council	<p>The Planning and Transportation section of Sheerness Town Council agree to this construction.</p> <p>Very pleased to see the advice given by the Environment Agency over flood risk. There is a danger that the rooms on the ground floor could be used for sleeping and it is difficult to police. This happening.</p>	The comment is understood to express support in principle though with a reservation regarding flooding to the ground floor.
Residential Objections		
Number received: 0		
Residential Support		
Number received: 0		

6.0 CONSULTATIONS

- 6.01 Environment Agency - We maintain our objection to this development. The submitted plans include home office space at ground level, where the applicant's FRA identifies flood depths of up to 1.2m. This is therefore not appropriate use at ground level. Home office space can be, and is, commonly used for sleeping accommodation and therefore poses a high risk to occupants.
- 6.02 Lower Medway Internal Drainage Board - It is not clear currently what the intended drainage strategy is for this site. I note from the Flood Risk Assessment submitted on the 26/01/2021 that the applicant is considering using soakaways and permeable paving to dispose of surface water. We would recommend that the proposed strategy is supported by ground investigation to determine the infiltration potential of the site and the depth to groundwater. If on-site material were to be considered favourable then we would advise infiltration testing in line with BRE Digest 365 (or equivalent) to be undertaken to determine its efficiency. Whilst the consenting process as set out under the Land Drainage Act 1991 and the aforementioned Byelaws are separate from planning, the ability to implement a planning permission may be dependent on the granting of these consents. As such I strongly recommend that the required consent is sought prior to determination of the planning application.
- 6.03 Environmental Health – No objection. Would request a dust management plan for construction, contaminated land condition, noise condition for construction, one electric vehicular charging point per dwelling and gas-fired boilers to meet a minimum standard.
- 6.04 Health and Safety Executive - From the plans provided it is clear that the proposed development falls within the vulnerable building consultation zone of the nearby licensed explosives facility but outside the inhabited building distance. The Explosives Inspectorate

has no comment to make on the planning application provided that the development is not a vulnerable building.

6.05 Highway Authority - Does not meet the criteria to warrant involvement from the Highway Authority.

7.0 APPLICANT'S SUPPORTING COMMENTS (summary of key points)

- All sleeping and living accommodation at first floor or above.
- Office on ground floor would encourage working from home.
- Positioning of dormers to front elevation only would prevent overlooking.
- Roof ridge height comparable with that of neighbouring development, only 1m higher.
- Windows on rear elevations at first floor to be to bathrooms and kitchens with obscure glazing to prevent overlooking.
- Electric charging to be provided to parking spaces.
- Sustainable location.
- External materials to match neighbouring development.
- Sustainable drainage to be incorporated.
- Respects scale and appearance of existing properties.

8.0 APPRAISAL

8.01 The main issues are the principle of the proposed development; design and appearance in relation to the streetscene and character of local area; effect to residential amenity of occupiers of neighbouring property; whether the proposal would have a sufficient degree of residential amenity for future occupiers and the occupiers of the host properties; parking and highway safety; affect to biodiversity; and, flood risk.

Principle of Development

8.02 The site is located within the built-up area boundary of Sheerness. Sheerness is classed as an Urban Local Centre, a second-tier sustainable location as identified within the settlement hierarchy of Policy ST3 of the adopted Local Plan. The site is in a sustainable urban location, suitable for residential development and the proposal is for residential development in a residential area. The proposal is acceptable in principle. However, as stated at paragraph 4.3.13 of the adopted Local Plan, whilst it will normally be the case that development can take place within built-up area boundaries, this will not always be so.

8.03 At point 8 of Policy ST 6 it is stated that development proposals will manage the level of risk from climate change and flooding.

Design and appearance

8.04 Although the application is in outline form with design a reserved matter, the description of the proposal specifies that the development would incorporate 1 bed dwellings with front dormers and accommodation at first floor and above. Therefore, if planning permission were to be granted, the description of the development would form the basis of the approval – with a likelihood that development of a similar form to the illustrative plans would come forward. An evaluation of this aspect of the proposal is therefore necessary.

8.05 The site is set in a residential area of housing to a relatively uniform design characterised by two storeys and hipped roofs of consistent ridge heights. The layout of the area is to a traditional design of houses facing a street with a front garden between the built forms of the houses and the highway.

- 8.06 The design shown in the application would generally conform with the building line of existing development, and the illustrative plans demonstrate that a design could be achieved that would not breach the front building lines on Linden Drive or Queens Way. The formation of a small terrace would be generally in keeping with the pattern of development in the area. However only a nominal gap would be provided between the proposal and the existing terrace to the south, whereas existing gaps between buildings in the surrounding streetscene are much wider.
- 8.07 The illustrative plans show a development of two storey characteristics with a third floor in the roof space. The existing street scene is of consistent two storey dwellings, and the development would be of greater visual prominence due to the likely need for a taller and greater roof slope and use of front dormers to accommodate the top floor. This would be somewhat at odds with the character and appearance of the surrounding area.
- 8.08 Given the modest size of the site, each unit would be contained on a small plot with rear gardens of approx. 7m depth. The surrounding area is characterised by dwellings on sizeable plots with good spaces between buildings. In contrast, the development of this site would appear cramped and would reduce the sense of space on a prominent corner position.
- 8.09 The three car parking spaces accessing directly to Queens Way would not enhance the appearance of the streetscene but, given that properties nearby have front gardens given over to parking provision, this arrangement would not unduly detract from the appearance or character of the area.
- 8.10 Taking the above into account, I would raise concern that the development of three dwellings on this small but prominent plot would be at odds with the character and appearance of the surrounding area and would be contrary to policies CP3, CP4 and DM14 of the Local Plan.

Residential Amenity

- 8.11 The nearest neighbours to the site are 32 Linden Drive, to the southwest, and 67 Queens Drive, to the southeast.
- 8.12 Given the orientation there would be no material loss of light to the occupiers of 32 Linden Drive. The rear elevation of the proposed terrace would be approximately level with the rear elevation of 32 Linden Drive such that there would be no loss of outlook from the rear elevation of 32 Linden Drive. 32 Linden Drive has a first-floor window on its flank elevation which would lose outlook since the proposed terrace would be set with a flank elevation some 1m away. However, this window would appear to be to a landing, the principal windows being to front or rear elevations as with other houses in the terrace. As there would only be a loss of outlook to a part of 32 Linden Drive understood not to be a habitable room it is considered that this aspect of the proposal is acceptable.
- 8.13 32 Linden Drive would retain a private amenity area of its rear garden of some 70 sq m. The retained rear garden would face southeast and consist of a useable space. The rear garden space to be retained by 32 Linden Drive is considered acceptable.
- 8.14 The curtilage of 32 Linden Drive would be reduced whereby it would have no on-site parking provision. Whilst it is the case that the property has an informal space with no dropped kerb to the highway now, it is considered that a replacement parking space should be provided for this property. The local highway authority has not commented on this aspect as the scale of the development is below the threshold whereby the local highway

authority would provide an assessed comment. However, given the outline nature of the application, I consider that a further space to meet this requirement could be secured by a planning condition if necessary.

- 8.15 The proposed built form of the terrace would be set to the northwest of the rear garden of 67 Queens Way with a separation distance of some 7m. There would be no significant loss of light or outlook to the occupiers of 67 Queens Way.
- 8.16 The curtilage of 67 Queens Way would also be retained whereby it would have no on-site parking provision. However, this property does not appear to have any existing parking. The local highway authority has raised no objection to the proposal.
- 8.17 The first-floor rear windows of the proposed houses would face the rear garden of 67 Queens Way, and beyond to other rear gardens to properties facing Queens Way. These windows are indicatively shown to be to bathrooms and kitchens of the proposed properties. The indicative plans are annotated to the effect that these windows would be obscure glazed and non-opening below a height of 1.7m from floor level. The kitchens would be relatively small, with floor areas of less than 9 sq m, and as such could be argued to be non-habitable rooms. Whilst the detailed design and layout would be subject to reserved matters, I note that any habitable window facing rear would need to be obscure glazed to maintain the privacy for existing dwellings, given the small garden length to the proposed development. As set out above, I consider this adds further weight to my concern that the development would be cramped on this small plot, with limited amenity space and a consequent need to use obscure glazing across the entire rear elevations to protect privacy.
- 8.18 With regard to the residential amenity of future occupiers, the illustrative floor area would be large for a one-bedroom property. If the same plans were submitted at reserved matter stage, I would be concerned that the units could actually be used as three-bedroomed properties, given the proportions of the dwelling and the illustrative floor plans with provision of a home office and utility room at ground floor – which could equally and easily be adapted to bedrooms or living accommodation. Each unit would have a rear garden to provide a private amenity area of some 35 sq m. Three car parking spaces would be provided for the three one-bedroom houses. Appendix 1 of Swale Borough Council Parking Standards (May 2020) advises that 1 and 2 bed houses where on-street parking controls are absent or limited should have 1 to 2 spaces per unit.

Biodiversity

- 8.19 The site is some 0.9 km from The Swale Special Protection Area, an international and national designated site of ecological value.
- 8.20 Since this application would result in a net increase in residential accommodation on the site, impacts to the SPA and Ramsar sites may occur from increased recreational disturbance. Due to the scale of the development, there is no scope to provide on-site mitigation and therefore off-site mitigation is required by means of developer contributions in accordance with established policy. No SAMMS contribution has been made, therefore the application is unacceptable in ecological terms and is unacceptable with regard to Policy DM 28.

Flood risk

- 8.21 The application is located within Flood Zone 3. The intention of the design is that habitable accommodation would be on the upper floors. The illustrative plans for the ground floor show the provision of a utility room and a home office. However, both these rooms could be

used as a bedroom. The utility room would measure 3.2m by 3.0m. The home office would have overall dimensions of 4.4m by 3.2m. Both the utility room and the home office would be of an ample size to accommodate a bed and have circulation space around the bed. As such these rooms could be used as bedrooms.

- 8.22 Given the overall scale of the houses and the size of the ground floor rooms, it is considered unrealistic that such ground floor accommodation would not be used for habitable purposes. This view is supported by the latest formal response of the Environment Agency who object to the development on flooding grounds.
- 8.23 Whilst the plans are only illustrative, I consider that the application fails to demonstrate how a scheme can be designed to avoid flood risks.
- 8.24 Policy DM14 of the adopted Local Plan, at point 4, that development proposals will respond to the constraints posed from climate change and, at point 7, be both well sited and of detail that is appropriate to the location. Policy DM21 states, at point 2, that development will avoid inappropriate development in areas at risk of flooding. The proposal is contrary to these policies.

9.0 CONCLUSION

- 9.01 The proposal entails development within the built-up area and is for residential development within a residential area. However, the proposal for three units would result in a cramped form of development on this limited plot, would require a roof form and front dormers that is not a feature of the area, and would likely require all windows in the rear elevation to be obscure glazed. The proposal is unacceptable with regard to flood risk and the impact to biodiversity of additional housing near protected sites has not been addressed.
- 9.02 As the Council cannot currently demonstrate a 5 year housing supply, paragraph 11 (d) of the NPPF is engaged. However, the “tilted balance” in favour of development does not apply if specified protection policies in the NPPF provide a clear reason for refusal – and this includes in areas subject to flood risk. In addition, I would state in any case that the adverse impacts identified above would significantly and demonstrably outweigh the benefits of permitting 3 dwellings, which would make a very limited contribution to housing supply.

10.0 RECOMMENDATION – REFUSE for the following reasons:

REASONS

- (1) The proposal fails to demonstrate how a scheme can be designed to mitigate flooding impacts in an area defined as Flood Zone 3. In the absence of evidence to the contrary, would give rise to significant and unacceptable risk to human life in the event of flooding. The proposal would therefore be contrary to policies DM14 and DM21 of the adopted Swale Borough Local Bearing Fruits 2031 and to the advice of paragraphs 155 and 156 of the National Planning Policy Framework.
- (2) The proposed development will create potential for recreational disturbance to the Swale Special Protection Area. The application submission does not include an appropriate financial contribution to the Thames, Medway and Swale Strategic Access Management and Monitoring Strategy (SAMMS), or the means of securing such a contribution, and therefore fails to provide adequate mitigation against that potential harm. The development would therefore affect the integrity of this designated European site, and would be contrary to the aims of policies ST1, DM14,

and DM28 of the adopted Swale Borough Local Plan 2017; and paragraphs 8, 170, 171, and 175 of the National Planning Policy Framework.

- (3) The proposal is considered to represent overdevelopment of the plot, by virtue of the likely height, scale and design of the dwellings to accommodate three floors, the limited size of the site and resultant likely cramped nature of the plots with small rear gardens, and the likely need to use obscure glazed windows on the rear elevations of the dwellings to protect neighbouring amenities. This would result in a development that would be out of character with the relatively spacious layout of dwellings in the surrounding area and which display a repetitive character of two-storey dwellings with consistent rooflines. Furthermore, the widespread use of obscure glazing on the rear elevations would fail to provide an acceptable degree of residential amenity which future occupiers would expect to enjoy. As such, the development would cause harm to the character and appearance of the surrounding area, would fail to represent good design, and would fail to provide sufficient amenity standards for future residents, contrary to Policies CP3, CP4 and DM14 of Bearing Fruits 2031 – The Swale Borough Local Plan, and the National Planning Policy Framework.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2021 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

